IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA.

Cr.A. No.86/2001

Reserved on.26.12.2007

Decided on.29.12.2007

State of H.P. **…Appellant.**

Versus

Paras Ram and others. **…Respondents**

Coram

The Hon'ble Mr. Justice Rajiv Sharma, J.

Whether approved for reporting ?[1]*. no.*

For the appellant : Mr. V.K. Verma, Addl. Advocate General

For the respondents Ms. Seema Guleria, Advocate.

Rajiv Sharma, J.

The respondents were prosecuted in criminal case No.94/2 of 1999 for offences punishable under sections 147, 323 read with section 149 of the Indian Penal Code in the court of Judicial Magistrate Ist Class (4), Shimla and were acquitted on 5.7.2000. The State has filed this appeal against the acquittal of the respondents.

The prosecution story as reveled from the record is that on 22.5.1999 at about 5.00 P.M. at village Balawag, P.O. Badheri, Tehsil and District Shimla when the complainant Dila Ram was ploughing his field, all the accused persons came to his field and told him to stop the ploughing and the accused persons attacked him with danda. The matter was reported to the police and statement of Dila Ram was recorded under section 154 of the Code of Criminal Procedure on the basis of which FIR Ex.PW-1/B was registered. On the completion of the investigation, the

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[1] ***Whether the reporters of Local Papers may be allowed to see the judgment***? No.

challan was filed in the Court. The respondents were charged under section 147, 323 read with section 149 of the Indian Penal Code. The accused persons were also examined under section 313 of the Code of Criminal Procedure. The Judicial Magistrate Ist Class (4), Shimla acquitted the respondents on 5.7.2000, hence, this appeal against their acquittal preferred by the State.

The learned Additional Advocate General had strenuously argued that the prosecution has proved the case against the respondents-accused.

Ms. Seema Guleria, Advocate had supported the judgment dated 5.7.2000.

I have heard the learned counsel for the parties and have gone through the record of the case.

The complainant was examined as PW-1 by the prosecution. He had stated that his son was ploughing the fields on 22.5.1999. This statement of PW-1 has been contradicted by his son, who appeared as PW-2. PW-2 has stated that his father was ploughing the fields. Similarly PW-1 has stated that Shankar Lal and one more boy had come to his rescue on 22.5.1999 but the boy was not examined by the prosecution. The prosecution witnesses have also contradicted themselves as to who went to the Police Station to lodge the report. The accused persons were not joined in the recovery of weapon of offence vide Ex.PW-1/C. The statement of PW-4 cannot be given any credence for the simple reason that he reached the spot after the incident took place. It has also come in the evidence that civil litigation is going on between the parties. There are material contradictions in the statement of PW-5 Meena Devi, who is daughter in law of the complainant. The statement of PW-6 has rightly not

been relied by the trial court. The prosecution has failed to establish the guilt of the respondents.

In view of the observations made hereinabove, this Court will not interfere in the well reasoned judgment of the learned Judicial Magistrate 1st Class (4), Shimla acquitting the respondents on 5.7.2000.

The result of the above discussion is that the appeal fails and the same is dismissed. The bail bonds furnished by the accused are discharged.

(Rajiv Sharma), Judge

December 29, 2007
Awasthi